

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SOHAIL RICE MILLS USA, INC., *et al.*

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,

Defendants.

ANSWER

Civil Action No.
1:20-cv-6208

(Komitee, J.)

Defendants, United States Citizenship and Immigration Services (“USCIS”), Tracy L. Renaud,¹ and Alejandro Mayorkas² (collectively, “Defendants”), by their attorney, Mark J. Lesko, Acting United States Attorney for the Eastern District of New York, Alex S. Weinberg, Assistant United States Attorney, of counsel, answer the correspondingly numbered paragraphs of Plaintiffs’ Complaint upon information and belief as follows:

INTRODUCTION³

1. Paragraph 1 contains legal conclusions and arguments, to which no response is required. To the extent that a response is required, Defendants deny the allegations, except to admit only that USCIS denied Sohail Rice Mills USA, Inc.’s (“Sohail”) Form I-129 L-1A temporary nonimmigrant worker visa petition filed on behalf of Zubair Chaudhry (“Mr. Chaudhry”), to which USCIS assigned File No. SRC1921850529 (the “Petition”).

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Defendant Tracy L. Renaud is automatically substituted for her predecessor Kenneth T. Cuccinelli.

² Pursuant to Federal Rule of Civil Procedure 25(d), Defendant Alejandro Mayorkas is automatically substituted for his predecessor Chad F. Wolf.

³ Defendants’ Answer replicates the headings contained in the Complaint for ease of reference. Defendants believe that no response is required to such headings. To the extent a response is required and those headings could be construed to contain factual allegations, Defendants deny those allegations.

2. Admit that Sohail submitted the Petition on behalf of Mr. Chaudhry. The remainder of Paragraph 2 purports to summarize the Petition and regulations, to which no response is required. Defendants respectfully refer the Court to the Petition and the regulations for a complete and accurate statement of their contents.

3. Deny.

4. Deny.

5. The first sentence of Paragraph 5 purports to summarize regulations, to which no response is required. Defendants respectfully refer the Court to the referenced regulations for a complete and accurate statement of their contents. To the extent that a response is required, Defendants deny paragraph 5, except to admit only that USCIS issued a Request for Evidence (“RFE”) on April 22, 2020, and denied the Petition on October 23, 2020.

6. Paragraph 6 constitutes Plaintiffs’ characterization of the instant action and the relief requested, to which no response is required. To the extent that a response is required, Defendants deny the allegations.

JURISDICTION

7. Paragraph 7 contains legal conclusions and arguments, to which no response is required.

VENUE

8. Paragraph 8 is a conclusion of law regarding venue, to which no response is required. To the extent a response is required, Defendants lack sufficient knowledge or information to admit or deny the last sentence of Paragraph 8, and therefore deny these allegations.

EXHAUSTION OF ADMINISTRATIVE REMEDIES NOT REQUIRED

9. Admit.

PARTIES

10. Paragraph 10 is Plaintiffs' characterization of Sohail and Sohail Rice Mills in Pakistan, to which no response is required. To the extent a response is required, Defendants lack sufficient knowledge or information to admit or deny the allegations in Paragraph 10, and therefore deny these allegations.

11. Paragraph 11 is Plaintiffs' characterization of Sohail, to which no response is required. To the extent a response is required, Defendants lack sufficient knowledge or information to admit or deny the allegations in Paragraph 11, and therefore deny these allegations.

12. Paragraph 12 is Plaintiffs' characterization of Mr. Chaudhry, to which no response is required. To the extent a response is required, Defendants lack sufficient knowledge or information to admit or deny the allegations in the first sentence of Paragraph 12, and therefore deny these allegations. Defendants deny the allegations in the second sentence of Paragraph 12.

13. Admit. This paragraph is also a characterization of USCIS's statutory functions and responsibilities, to which no response is required.

14. Deny the allegations in paragraph 14. Defendants aver that Tracy L. Renaud is automatically substituted as a defendant for Mr. Cuccinelli.

15. Deny the allegations in paragraph 15, except admit only that USCIS is a component of DHS. Defendants aver that Alejandro Mayorkas is automatically substituted as a defendant for Mr. Wolf.

FACTUAL AND LEGAL BACKGROUND

16. Paragraph 16 contains legal conclusions and arguments, to which no response is required. Defendants respectfully refer the Court to the cited regulation for a complete and accurate statement of its content. To the extent paragraph 16 asserts factual allegations, Defendants deny.

17. The first sentence of Paragraph 17 contains legal conclusions and arguments, to which no response is required. Defendants lack sufficient knowledge or information to admit or deny the allegations in the second sentence of Paragraph 17, and therefore deny these allegations.

18. Defendants deny the first sentence of paragraph 18, except to admit only that Sohail submitted the L-1A New Office Petition to the Texas Service Center of USCIS. The second sentence of Paragraph 18 purports to summarize the Petition. Defendants respectfully refer the Court to the Petition for a complete and accurate statement of its content. To the extent that a response is required, Defendants deny the allegations in the second sentence of Paragraph 18. Admit the third sentence of Paragraph 18.

19. Admit.

20. Paragraph 20 purports to summarize the RFE issued by USCIS. Defendants respectfully refer the Court to the RFE for a complete and accurate statement of its content. To the extent that a response is required, Defendants deny the allegations.

21. Deny.

22. Deny.

23. Deny.

24. Paragraph 24 purports to summarize regulations, to which no response is required. Defendants respectfully refer the Court to the cited regulations for a complete and accurate statement of their contents.

25. Deny. To the extent that Plaintiffs are listing the documents Sohail submitted as part of its Petition and RFE response, Defendants respectfully refer the Court to those documents for a complete and accurate statement of their contents.

26. Defendants deny the allegations in the first sentence of Paragraph 26, except to admit only that USCIS issued a Decision dated October 23, 2020. The remainder of Paragraph 26 and sub-paragraphs a., b., c., d., e., and f. purport to cite from USCIS's Decision dated October 23, 2020. Defendants respectfully refer the Court to the Decision for a complete and accurate statement of its content.

27. Paragraph 27 and sub-paragraphs a., b., c., d., e., and f. contain legal conclusions and arguments, to which no response is required. To the extent that a response is required, Defendants deny these allegations.

28. Deny. To the extent that Plaintiffs are quoting from any documents submitted as part of Sohail's RFE response, Defendants respectfully refer the Court to those documents for a complete and accurate statement of their contents.

29. The first sentence of Paragraph 29 purports to cite to a regulation, to which no response is required. Defendants respectfully refer the Court to the cited regulation for a complete and accurate statement of its content. Defendants deny the second sentence of Paragraph 29, except to admit only that USCIS issued a RFE on or about April 22, 2020, and issued a Decision dated October 23, 2020.

30. Defendants deny the allegations in Paragraph 30.

COUNT

31. The allegations in Paragraph 31 incorporate those allegations contained in Paragraphs 1 through 30 and, therefore, the answers to those paragraphs are incorporated herein.

32. Paragraph 32 is a statement of law, to which no response is required.

33. Paragraph 33 purports to characterize USCIS's Decision dated October 23, 2020. Defendants respectfully refer the Court to the Decision of a complete and accurate statement of its content. To the extent that a response is required, Defendants deny, except to admit only that the record evidence was insufficient to establish that Sohail is eligible for the benefit requested in its Form I-129 L-1A temporary nonimmigrant worker visa petition filed on or about July 10, 2019 on behalf of Mr. Chaudhry.

34. Deny.

35. Deny.

REQUESTS FOR RELIEF

The remaining unnumbered paragraph and subparagraphs A through C constitute a request for relief to which no response is required. Insofar as a response is required, Defendants deny any factual allegations and Plaintiffs' requests for relief.

Further, all allegations contained in the Complaint not specifically admitted or denied in the foregoing numbered responses are hereby denied.

DEFENSES

1. Plaintiffs have failed to satisfy their burden of establishing that Sohail is eligible for the benefit requested in its Form I-129 L-1A temporary nonimmigrant worker visa petition filed on or about July 10, 2019 on behalf of Mr. Chaudhry.

2. Plaintiffs fail to state a claim upon which relief may be granted.

3. Defendants may have additional defenses that are not known at this time, but which may become known through further proceedings. Accordingly, Defendants reserve the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

Dated: Brooklyn, New York
April 5, 2021

MARK J. LESKO
Acting United States Attorney
Eastern District of New York
Attorney for Defendants
271 Cadman Plaza East
Brooklyn, New York 11201

By: /s/ Alex S. Weinberg
ALEX S. WEINBERG
Assistant United States Attorney
(718) 254-6616
alex.weinberg@usdoj.gov

TO: All Counsel of Record (via ECF)